

**SECOND NOTICE OF COMMENT PERIOD**

LSA Document #10-66

**DEVELOPMENT OF NEW RULES CONCERNING UNDERGROUND STORAGE TANK OPERATOR TRAINING REQUIREMENTS****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules at [329 IAC 9-9](#) concerning training of persons who operate underground storage tank (UST) systems. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

**HISTORY**

First Notice of Comment Period: February 17, 2010, Indiana Register (DIN: [20100217-IR-329100066FNA](#)).

**CITATIONS AFFECTED:** [329 IAC 9-9](#).

**AUTHORITY:** [IC 4-22-2](#); [IC 13-14-8-4](#); [IC 13-14-8-7](#); [IC 13-19-3-1](#); [IC 13-23-1-1](#); [IC 13-23-1-3](#); [IC 13-23-7-1](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

On August 8, 2007, the United States Environmental Protection Agency (EPA) published operator training grant guidelines in the Federal Register (72 FR 44523) for states that receive UST funds from EPA. EPA developed these grant guidelines as required by the operator training provision in Section 9010 of Subtitle I of the Solid Waste Disposal Act (SWDA), 42 U.S.C. 6901 et seq., enacted by the Underground Storage Compliance Act, part of the Energy Policy Act of 2005. Section 1524 of the Energy Policy Act of 2005 amends Subtitle I of the SWDA of 1965 by adding Section 9010, Operator Training.

Section 9010(a) and Section 9010(b) of Subtitle I of the SWDA require EPA to publish guidelines that establish training requirements for three distinct classes of UST system operators and require states to develop state-specific training requirements consistent with the guidelines. The EPA training grant guidelines describe the minimum requirements states must meet to comply with the operator training provision contained in the Energy Policy Act of 2005, leaving states the flexibility to tailor their program according to their needs. The original date for states to develop training requirements consistent with EPA's guidelines was August 8, 2009. The deadline to ensure that all three classes of operators are trained according to the state training requirements is August 8, 2012.

[IC 13-23-1-1](#) directs IDEM to establish and operate a UST release detection, prevention, and correction program. The operator training required under the federal regulations is a part of the prevention portion of the program. In addition, [IC 13-19-3-1](#) requires the Solid Waste Management Board to adopt rules necessary to implement the Resource Conservation Recovery Act (RCRA).

To comply with the federal mandate, IDEM is proposing new rules for UST system operator training. These rules establish three distinct classes of UST operators identified as Class A, Class B, and Class C. The rules describe the responsibilities for each class of operator and provide that Class A and Class B operators must be trained and certified through the online training program established by IDEM under Senate Enrolled Act 347, enacted this year. Class C operators must receive UST system facility specific training from a certified Class A or Class B operator or other qualified trainer. This rule will apply to owners and operators of USTs; therefore, all the training requirements will be appropriately communicated to UST owners and operators. Once Indiana has met the requirements for an operator training and certification program, it must submit to EPA a certificate indicating that the state meets the requirements in the EPA guidelines.

**[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law**

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law.

**Potential Fiscal Impact**

This rulemaking addresses a requirement imposed under federal law; therefore, there is no additional fiscal impact beyond the impact already imposed under federal law. Indiana has approximately 4,000 underground storage tank facilities. Operators overlap for these facilities (and can overlap in their training) so the number of operators requiring training could be approximately 2,000. However SEA 347, enacted this year, requires that IDEM provide an online training program that complies with the Federal Energy Policy Act of 2005. Under this legislation, the online training will be provided by IDEM.

**Public Participation and Workgroup Information**

No workgroup is planned for this rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Kiran Verma, Rules Development Branch, Office of Legal Counsel at (317) 232-8899 or (800) 451-6027 (in Indiana).

#### **SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from November 4, 2009, through December 4, 2009, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

Beveridge & Diamond, P.C. (BD)

Indiana Petroleum Marketers & Convenience Store Association (IPCA)

Following is a summary of the comments received and IDEM's responses thereto:

*Comment:* Beveridge & Diamond, P.C. submits these comments on behalf of our client, which owns and operates approximately twelve (12) retail fueling stations in Indiana. Our client strongly supports the Energy Policy Act's objectives of ensuring that UST operators have the proper training to maintain UST systems in a manner that protects both the integrity of the environment and the health and safety of our client's customers, employees, and the public. As an owner of retail fueling stations in multiple states, our client believes that states should strive for consistency in training requirements, adhere closely to EPA's Operator Training Grant Guidelines for States, 72 Fed. Reg. 44,523 (Aug. 8, 2007) ("EPA Guidelines"), and, at a minimum, provide reciprocity for training received in other states as well as flexibility for owners to implement their own training programs for their employees. (BD)

*Response:* IDEM has closely adhered to the EPA Guidelines in crafting this rule. State legislation (SEA 347) enacted in 2011 has required IDEM to provide a training program through an Internet web site to satisfy the requirements of the Energy Policy Act for UST operator training. Due to the planned availability and easy access of its on-line training program, IDEM has not proposed granting reciprocity for training received in other states. The rule does allow Class C operators to be trained by a person qualified through personal knowledge of the facility, which allows owners to implement their own training program as long as it meets the requirements of the rule.

*Comment:* Definition of "Operator" and "Operator Classes" - The First Notice of Comment Period indicates that IDEM plans to establish three classes of operators identified as Class A, Class B, and Class C. We recommend that any proposed regulation in Indiana incorporate the definitions of these operators found in the EPA Guidelines. This will ensure that the definitions of Class A, Class B, and Class C operators in Indiana's forthcoming regulation are consistent with federal guidelines as well as the operator training regulations in most states. In addition, we strongly believe that the operator classes in Indiana's forthcoming regulation should be defined broadly to allow owners the flexibility to hire contractors or consultants to serve as Class A and Class B operators in addition to employees. The EPA Guidelines do not prohibit third parties from serving as UST operators under the direction of owners. Moreover, we do not believe there would be any compromise in protection of the environment, health, or safety if contractors or consultants were allowed to serve as UST operators. Owners would continue to be responsible for ensuring that persons serving as UST operators, including its contractors or consultants, are trained in accordance with the rules. Allowing third parties to serve as operators would also provide several important benefits. Owners would be able to reduce compliance costs by utilizing the most qualified, experienced UST professionals available, including those with intimate knowledge of the UST systems at a facility. It is particularly important that owners have the option to designate specialized and highly qualified third-party operators for unattended facilities. These facilities generally do not have a trained operator on site during operation and a specialized third party operator would be more likely to identify any compliance issues during site inspections, thereby lowering the risks of non-compliance. The use of specialized third-party operators would also allow owners with fueling stations in multiple states, such as our client, to adopt a more uniform approach to ensure that operators are trained in accordance with the rules in each state. Accordingly, we strongly recommend that Indiana's forthcoming rule allow contractors or consultants to serve as Class A and Class B operators. (BD)

*Response:* The rule as proposed incorporates the classification of operators found in the EPA Guidelines. The proposed rule specifically allows a UST system owner to contract with a non-employee to serve as a Class A or Class B operator for the UST system.

*Comment:* Operator Training: Training Providers - We suggest that Indiana's operator training rule be designed to allow owners to provide training to all classes of operators for three reasons. First, allowing owners to conduct training would serve the interests of health, safety, and the environment by allowing owners to tailor training programs to the needs of the specific types of UST facilities they own. All owners do not have identical UST systems and do not manage their UST systems in the same way. Owners could tailor the training to the specific, detailed requirements applicable to their facilities. As a result, operators would be focused on the safety features and environmental protections applicable to their particular types of facilities rather than distracted by extraneous information on other types of UST systems. Second, this approach would provide certain efficiencies. In particular, owners would save time and money because operators of retail fueling stations, for example, would

not be expected to learn materials that would only be applicable to UST systems at other types of facilities, e.g., industrial installations. Third, allowing owners to implement their own training seminars would not add to the administrative duties of IDEM. While IDEM may require approval for third party training programs, such approval would not be necessary for owners. Owners would likely be subject to liability under any operator training program IDEM develops if they were to fall short of Indiana's operator training requirements.

Furthermore, IDEM could establish a process to review training materials for training programs at the time of compliance inspections. Such a process is followed by the U.S. Department of Transportation for training conducted in accordance with its hazardous materials transportation rules. (BD)

*Response:* State legislation (SEA 347) enacted in 2011 has required IDEM to provide a training program through an Internet web site to satisfy the requirements of the Energy Policy Act for UST operator training. The rule does allow Class C operators to be trained by a person qualified through personal knowledge of the facility, which allows owners to implement their own training program as long as it meets the requirements of the rule.

*Comment:* Training format - We believe that owners should be able to take advantage of current technologies and provide computer-based, on-line interactive training programs. On-line training has several benefits. For example, it ensures that training is comprehensive and uniform across facilities, while allowing for detailed instruction in facility procedures through video or other electronic means. On-line training, in which operators interact with the program, also allows for easy and cost-effective documentation and verification of operator training by owners. Accordingly, we suggest that Indiana's operator training rule explicitly allow operator training to be provided in an on-line format that communicates the required training content. Such a feature would ensure that Indiana's forthcoming rule is in line with the EPA Guidelines, which allow for on-line training if it includes an evaluation of operator knowledge (72 FR 44526). (IPCA)

*Comment:* To contain costs and save time, IDEM should readily approve, and encourage, development of "on-line" training programs. Certainly EPA's guidance suggesting that Class A and B operators be trained within 30 days speaks to the practicality of allowing "on-line" training. (BD)

*Comment:* An evaluation of operator knowledge is appropriate for Class A and B operators. We believe such examinations can also occur "on-line" with appropriate safeguards. (BD)

The response to the above three comments is as follows:

*Response:* State legislation (SEA 347) enacted in 2011 has required IDEM to provide a training program through an Internet web site to satisfy the requirements of the Energy Policy Act for UST operator training. The rule does allow that Class C operators to be trained by a person qualified through personal knowledge of the facility, which allows owners to implement their own training program as long as it meets the requirements of the rule.

*Comment:* Recordkeeping - We generally support provisions that would require owners to maintain records of operator training, but we believe such requirements should strike a balance between the interest in documenting operator training and the interest in avoiding unnecessary and costly paperwork. We suggest that any proposed regulation in Indiana clarify that records of operator training must be kept only as long as the person serves as a Class A, B, or C operator at the facility, but not longer than three (3) years. In addition, we suggest that any proposed regulation specify that owners will be permitted to maintain operator training records at the owner's principal place of business or other centralized location. This would enable the owner to streamline its oversight of facilities and ensure that all the facilities it owns are in compliance with the training requirements. Such oversight is especially important where the owner, such as our client, has facilities in multiple states. (IPCA)

*Comment:* From a practical standpoint, we believe that training records can be stored at a readily available alternative site and be provided for inspection within 24 business hours. (BD)

The response to the above two comments is as follows:

*Response:* The proposed rule requires records of all designated operators for the UST system be maintained under the general recordkeeping provisions of [329 IAC 9](#), at 9-3-1(d).

*Comment:* Reciprocity - We strongly encourage IDEM to recognize operator training conducted in other states. Such reciprocity benefits owners, operators, and consumers by eliminating the need to provide redundant training and thereby lowering compliance costs. Reciprocity provisions are particularly important to owners, including our client, that operate fueling stations in multiple states. Therefore, we suggest that any proposed regulation in Indiana provide reciprocity for all operators (including Class A, Class B, and Class C operators) that have completed operator training in another state. (BD)

*Response:* State legislation (SEA 347) enacted in 2011 has required IDEM to provide a training program through an Internet web site to satisfy the requirements of the Energy Policy Act for UST operator training. Due to the planned availability and easy access of its on-line training program, IDEM has not proposed granting reciprocity for training received in other states.

*Comment:* The IPCA is a trade association that was formed in 1922 by Indiana wholesalers and retailers of petroleum products. Today, the IPCA has more than 370 members comprised primarily of small to medium-sized, family-owned businesses that own and operate service stations and convenience stores and supply petroleum, wholesale and retail, and related products and services throughout Indiana. Excluding the USTs owned by the major oil companies, the IPCA members own, operate and/or supply petroleum products to a majority of the

remaining USTs in Indiana that are subject to Indiana's Underground Storage Tank program. In that context, we respectfully submit the following "concepts" for IDEM to consider when implementing this rule: It should be recognized that this rule results from an unfunded mandate arising out of the Energy Policy Act of 2005. Given the enormous pressure on state resources, as well as the fragile state of Indiana's economy, IDEM's rulemaking should fulfill, but not exceed, EPA guidance. (IPCA)

*Response:* IDEM has closely adhered to the EPA Guidelines in crafting this rule.

*Comment:* Rather than endorsing or stipulating a single training method, we believe IDEM should "certify" acceptable training programs from qualified vendors. This will allow for competition in the free marketplace that will help contain training costs. UST operators fulfill their responsibilities for training once they complete an IDEM-certified training program. (IPCA)

*Response:* State legislation (SEA 347) enacted in 2011 has required IDEM to provide a training program through an Internet web site to satisfy the requirements of the Energy Policy Act for UST operator training.

*Comment:* To recapture a portion of their expenses, IDEM may charge a "reasonable" fee to analyze submissions from vendors. We would expect the "certification" process to be thorough, but would imagine that programs that have been approved in other states could be reviewed in an expedited fashion. (IPCA)

*Response:* State legislation (SEA 347) enacted in 2011 has required IDEM to provide a training program through an Internet web site to satisfy the requirements of the Energy Policy Act for UST operator training.

*Comment:* To contain costs and save time, IDEM should readily approve, and encourage, development of "on-line" training programs. Certainly EPA's guidance suggesting that Class A and B operators be trained within 30 days speaks to the practicality of allowing "on-line" training. Training curriculum for Class A, B and C Operators should follow the guidance contained in EPA's August 2007 guideline document. (IPCA)

*Response:* IDEM has closely adhered to the EPA Guidelines in crafting this rule. State legislation (SEA 347) enacted in 2011 has required IDEM to provide a training program through an Internet web site to satisfy the requirements of the Energy Policy Act for UST operator training.

*Comment:* Given the high turnover in the convenience store industry, we endorse the concept of allowing Class C operator training to be conducted by a trained Class A or Class B operator. This is extremely practical since Class C operators are on the front-line and will need to familiarize themselves to site specific factors. As such, a signed checklist conducted during a walk-around with a Class A or B operator could suffice as sufficient training. An evaluation of operator knowledge is appropriate for Class A and B operators. We believe such examinations can also occur "on-line" with appropriate safeguards. (IPCA)

*Response:* State legislation (SEA 347) enacted in 2011 has required IDEM to provide a training program through an Internet web site to satisfy the requirements of the Energy Policy Act for UST operator training. Due to the planned availability and easy access of its on-line training program, IDEM has not proposed granting reciprocity for training received in other states. The rule does require that Class C operators be trained by a person qualified through personal knowledge of the facility, which allows owners to implement their own training program as long as it meets the requirements of the rule.

*Comment:* From a practical standpoint, we believe that training records can be stored at a readily available alternative site and be provided for inspection within 24 business hours. (IPCA)

*Response:* The proposed rule requires records of all designated operators for the UST system be maintained under the general recordkeeping provisions of [329 IAC 9](#), at 9-3-1(d).

*Comment:* Refresher training for Class A and B operators is needed only if the UST is out of compliance. (IPCA)

*Response:* IDEM believes that refresher training is appropriate on a three-year basis to address state and federal rule changes in the UST program and to refresh the operator's original or last training.

*Comment:* The IPCA looks forward to continuing to work with IDEM and other interested stakeholders in ensuring that the goals and policies for addressing additional training for UST operators are met. (IPCA)

*Response:* IDEM thanks you for your comments.

## REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:  
LSA Document #10-66 (UST Operator Training Program)  
Janet Pittman  
Rules Development Branch  
Office of Legal Counsel  
Indiana Department of Environmental Management  
100 North Senate Avenue  
MC 65-45  
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 232-8922.

(3) By electronic mail to [kverma@idem.in.gov](mailto:kverma@idem.in.gov). To confirm timely delivery of your comments, please request a document receipt when you send the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking you are commenting on.

#### COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped no later than March 2, 2012. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Kiran Verma, Rules Development Branch, Office of Legal Counsel, (317) 232-8899 or (800) 451-6027 (in Indiana). Technical information about this action may be obtained from Bruce Kizer, Branch Chief, OLQ Compliance and Response Branch (317) 232-8857 or (800) 451-6027 (in Indiana).

#### DRAFT RULE

SECTION 1. [329 IAC 9-9](#) IS ADDED TO READ AS FOLLOWS:

#### Rule 9. Underground Storage Tank Operator Training and Certification

##### [329 IAC 9-9-1](#) Applicability

Authority: [IC 4-22-2](#); [IC 13-14-8-4](#); [IC 13-14-8-7](#); [IC 13-19-3-1](#); [IC 13-23](#)

Affected: [IC 13-23](#)

**Sec. 1. This rule applies to all owners and operators of UST systems, and operators of UST systems that are classified by this rule. This rule establishes UST operator training and certification requirements.**

*(Solid Waste Management Board; [329 IAC 9-9-1](#))*

##### [329 IAC 9-9-2](#) Definitions

Authority: [IC 4-22-2](#); [IC 13-14-8-4](#); [IC 13-14-8-7](#); [IC 13-19-3-1](#); [IC 13-23](#)

Affected: [IC 13-23](#)

**Sec. 2. (a) In addition to the definitions in [329 IAC 9-1](#), the definitions in this section apply throughout the rule.**

**(b) "Certificate" means a document issued by the department to a person who has met the training and operator knowledge evaluation requirements of this rule for a Class A or Class B UST system operator. A certificate is issued by the department online after the person has successfully completed the online training and operator knowledge evaluation program provided by the department.**

**(c) "Certified" means the following:**

**(1) For a Class A or Class B operator, a person that has been issued a Class A or Class B operator's certificate by the department for the period the certificate is valid.**

**(2) For a Class C operator, an employee that has been issued a Class C certification by the designated Class A or Class B operator for the period the certification is valid.**

**(d) "On-site" means all areas within the facility boundary.**



(e) "Unattended facility" means a UST system facility that operates under the applicable provisions of this article without the daily presence of a certified operator. Such a facility includes the following:

- (1) An emergency generator at a telecommunications tower.
- (2) A card lock/card access facility.

(Solid Waste Management Board; [329 IAC 9-9-2](#))

### **[329 IAC 9-9-3](#) General provisions and transition**

Authority: [IC 4-22-2](#); [IC 13-14-8-4](#); [IC 13-14-8-7](#); [IC 13-19-3-1](#); [IC 13-23](#)

Affected: [IC 13-23](#)

Sec. 3. (a) The owner or operator of a UST system must designate a Class A, Class B, and Class C operator for the UST system on or before August 8, 2012, except as provided in subsection (c). The owner and operator of the UST system are responsible for ensuring that the Class A, Class B, and Class C operators fulfill their responsibilities under this rule. Each designated operator must be certified under this rule.

- (1) An incoming designated Class A or Class B operator for an existing UST system without compliance deficiencies documented by the department must be certified within thirty (30) days of assuming full operation and maintenance responsibilities at the UST system.
- (2) An incoming designated Class C operator must be certified before assuming responsibilities at a UST system facility.
- (3) An incoming designated Class A or Class B operator at an existing facility that has compliance deficiencies documented by the department must be certified before assuming full operation and maintenance responsibilities at a UST system facility.
- (4) The owner or operator of a UST system that goes into use after August 8, 2012, must designate a certified Class A, Class B, and Class C operator for that system within thirty (30) days of bringing the UST system into use.

If the owner and operator of the UST system are separate persons, either the owner or operator may designate the Class A, Class B, and Class C operators for the UST system, but both the owner and the operator have equal responsibility to ensure that Class A, Class B, and Class C operators are designated. An owner or operator may contract with another person to provide Class A or Class B operator services for the owner or operator's UST system.

(b) Either a Class A, Class B, or Class C operator must be present on-site during the operation of a UST system facility, except as provided in subsection (c). At the owner or operator's discretion, one (1) person may be designated as the Class A, Class B, and Class C operator for a facility, provided that person complies with the requirements for each class for which that person is designated.

(c) The owner or operator of an unattended facility is not required to designate a Class C operator or have a Class A, Class B, or Class C operator present on-site during the operation of the tank system. A sign must be posted in a conspicuous place stating the emergency shut-off procedures and the name, address, and telephone number of the Class B operator for the UST system along with the name and telephone number of the local emergency responders, including 911 personnel. However, the designated operators for the UST system remain responsible for operation and maintenance activities and responding to alarms and emergencies and must otherwise meet the requirements of this rule.

(d) A certified Class A or Class B operator may be a designated operator for more than one (1) UST system facility.

(e) A person shall not perform the duties of a Class A or Class B operator unless that individual has a valid certificate from the department relating to that class. A person shall not perform the duties of a Class C operator unless that person has a valid certification as a Class C operator.

(Solid Waste Management Board; [329 IAC 9-9-3](#))

### **[329 IAC 9-9-4](#) Penalties and enforcement**

Sec. 4. Penalties for violation of this article shall be governed by [IC 13-14](#), [IC 13-23-14](#) and [IC 13-30](#).

(Solid Waste Management Board; [329 IAC 9-9-4](#))

#### [329 IAC 9-9-5](#) Classification of operators

Authority: [IC 4-22-2](#); [IC 13-14-8-4](#); [IC 13-14-8-7](#); [IC 13-19-3-1](#); [IC 13-23](#)

Affected: [IC 13-23](#)

Sec. 5. (a) A Class A operator is the person with primary responsibility for the overall operation of one (1) or more UST systems. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with this article and state and federal laws related to USTs. Class A operators are responsible for ensuring that appropriate personnel do all of the following:

- (1) Properly operate and maintain the UST system.
- (2) Maintain appropriate records.
- (3) Receive training to operate and maintain the UST system and keep records.
- (4) Properly respond to emergencies or alarms related to releases, leaks, or spills from UST systems at the facility.
- (5) Make financial responsibility documents available to the department as required.

(b) A Class B operator is a person who has daily on-site responsibility and direct control over the operation, maintenance, and record keeping for a UST system. Class B operators are responsible for monitoring and ensuring that all of the following occur:

- (1) Release or leak detection methods, record keeping, and reporting requirements are met.
- (2) Release or leak prevention equipment, record keeping, and reporting requirements are met.
- (3) All relevant equipment complies with performance standards.
- (4) Appropriate personnel are trained to properly respond to emergencies or alarms caused by releases, leaks, or spills from the UST system.
- (5) All designated Class C operators are provided with written instructions that include emergency response procedures as follows:
  - (A) Procedures for overfill protection during delivery of regulated substances.
  - (B) Operation of emergency shut-off systems.
  - (C) Appropriate responses to all alarms.
  - (D) Reporting of leaks, spills, and releases.
  - (E) All site-specific emergency procedures.
  - (F) The name and contact information of persons to contact if a leak, spill, or release occurs.

(c) A Class C operator is an employee of the UST system facility who has on-site responsibility to initially respond to alarms or other indications of emergencies caused by spills, leaks, or releases from UST systems. The Class C operator notifies the Class B or Class A operator for the UST system and appropriate emergency responders, including 911 personnel, when necessary. This operator also controls or monitors the dispensing or sale of regulated substances.

(d) The Class C operator training must include an understanding of the instructions described in subsection (b)(5) and how to take appropriate action in response to the following:

- (1) Emergencies, including situations posing an immediate danger or threat to the public or to the environment that require immediate action.
- (2) Alarms caused by spills, leaks, or releases from a UST system.
- (3) Reports from the public of damaged equipment or unusual operating conditions.

(Solid Waste Management Board; [329 IAC 9-9-5](#))

#### [329 IAC 9-9-6](#) Training requirements

Authority: [IC 4-22-2](#); [IC 13-14-8-4](#); [IC 13-14-8-7](#); [IC 13-19-3-1](#); [IC 13-23](#)

Affected: [IC 13-23](#)

Sec. 6. (a) A person seeking to be certified as a Class A or Class B operator shall complete the online training and operator knowledge evaluation course provided by the department that relates to the responsibilities of the Class A or Class B operator contained in this rule.

(b) Class C operator training shall be conducted as follows:

(1) A certified Class A or Class B operator may provide training or may authorize training for a Class C operator employed at the UST system facility where the Class A or Class B operator is a designated operator. A Class A or Class B operator is not required to obtain approval from the department prior to providing training or authorizing training for a Class C operator.

(2) Trainers of Class C operators shall use instructional materials covering the topics listed in section 5(b)(5) and 5(d) of this rule.

(3) The trainer and the designated Class A or Class B operator shall sign a certification provided by the department online verifying that the Class C operator has been successfully trained by a qualified trainer and is certified for three (3) years from the date of the training.

(c) Class A, Class B, and Class C operators must receive full refresher training under the requirements of this rule and be recertified every three (3) years unless the provisions of section 8 of this rule apply. For Class A and Class B operators, retraining and recertification must be accomplished prior to the expiration of the certificate. For Class C operators, retraining and recertification must be accomplished prior to the expiration of the certificate.

(Solid Waste Management Board; [329 IAC 9-9-6](#))

#### [329 IAC 9-9-7](#) Certified operator records; inspections

Authority: [IC 4-22-2](#); [IC 13-14-8-4](#); [IC 13-14-8-7](#); [IC 13-19-3-1](#); [IC 13-23](#)

Affected: [IC 13-23](#)

Sec. 7. (a) Owners and operators shall maintain records identifying designated and certified Class A, Class B, and Class C operators of each UST system as required in [329 IAC 9-3-1\(d\)](#).

(b) When requested by the department or at any inspection conducted by the fire marshal, owners and operators of a facility or facilities containing a UST system shall provide a list of designated certified Class A, Class B, and Class C operators for each facility.

(c) All records maintained under this section must include current contact information for each designated operator, including a telephone number and mailing address.

(Solid Waste Management Board; [329 IAC 9-9-7](#))

#### [329 IAC 9-9-8](#) Failure to comply; operator retraining and recertification

Authority: [IC 4-22-2](#); [IC 13-14-8-4](#); [IC 13-14-8-7](#); [IC 13-19-3-1](#); [IC 13-23](#)

Affected: [IC 13-23](#)

Sec. 8. (a) If the UST system for which the operators are responsible is found, through a department on-site inspection or records inspection, to have one (1) or more than one (1) deficiencies as follows:

(1) failure to comply as defined in [329 IAC 9-1-19.5](#);

(2) failure to timely submit notifications under this article; or

(3) failure to maintain financial responsibility under this article;

the Class A, Class B, or Class C operator must go through retraining and be recertified when, in the judgment of the commissioner, the deficiencies demonstrate the need for retraining and recertification.



**(b) The retraining schedule shall be as follows:**

**(1) The Class A and Class B operator, if required by the department, must complete retraining and be recertified within thirty (30) days of notification by the department that the operator or operators must be retrained.**

**(2) For Class C operators, the department must be notified in writing that the required retraining and recertification has taken place within ten (10) days of the inspection.**

**(c) Failure to timely complete retraining will void the operator's certified status until the operator is retrained and recertified.**

**(d) An operator that is recertified under this section is recertified for a period of three (3) years, unless the provisions of this section apply.**

*(Solid Waste Management Board; [329 IAC 9-9-8](#))*

[Notice of Public Hearing](#)

*Posted: 02/01/2012 by Legislative Services Agency*

An [html](#) version of this document.